

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6217

BILL NUMBER: SB 76

NOTE PREPARED: Feb 14, 2009

BILL AMENDED: Feb 12, 2009

SUBJECT: Solid waste management district funding sources.

FIRST AUTHOR: Sen. Gard

FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) *Property Tax Levy and Fees:* This bill provides that for the first year that a property tax will be imposed by a solid waste management district, the district's board must present identical resolutions to each of the county fiscal bodies within the district seeking approval for the use of the property tax revenue. It provides that a district is subject to the statute that requires an entity with a non-elected board to get county council approval of the entity's proposed property tax levies and budget when the entity's budget is growing faster than the assessed value growth quotient. It provides that if a district will impose property taxes in the following year but is not required to seek county council approval (because the district's budget is growing by less than the assessed value growth quotient), the district's proposed budget and property tax levy for the following year are subject to review and a non-binding recommendation by the county council. It provides that county council approval of a solid waste management district's initial property tax levy must be made before August 1 (rather than before May 1, under current law). It specifies that a district may impose fees only if the district board holds a public hearing in the immediately preceding calendar year and then approves the fees by a majority vote of all members of the board. It requires consolidation of public hearings if imposition of both property taxes and fees is proposed.

Adoption of annual budgets: The bill requires the district's annual budget to be approved by a majority vote of all members of the board.

Dissolution of Solid Waste Management districts: The bill provides that in the case where all but one of the counties participating in a joint district have withdrawn from the joint district or have been removed from the joint district, the county that did not withdraw or was not removed from the joint district must designate itself as a new county district, join one or more other counties to form a new joint district, or join an existing joint district. It specifies that the following apply if such a county does not join or form a joint district: (1) The county must designate itself as a new county district and shall be treated as a new county district. (2)

The district must after a public hearing adopt and submit to the Indiana Department of Environmental Management (IDEM) commissioner for approval a new district solid waste management plan. (3) The district must after a public hearing adopt a new budget for the district. (4) If the district will impose property taxes in the following year, the county fiscal body must approve the use of property taxes. (5) The board of the district shall appoint and convene a new solid waste management advisory committee.

The bill provides that in the case of a joint district from which all but one of the participating counties has withdrawn and from which the last withdrawing county withdrew effective after December 1, 2006, and before January 1, 2009, the county that did not withdraw from the district must take one of these actions before January 1, 2010. It provides that after any county designates itself as a new county district, joins one or more other counties to form a new joint district, or joins an existing joint district, the county district or joint district shall after a public hearing submit a district plan to the IDEM commissioner. It provides that if such a new county district or new joint district will impose property taxes in the following year, each of the county fiscal bodies within the district must approve the use of property taxes by the district.

Effective Date: July 1, 2009.

Explanation of State Expenditures: (Revised) *Dissolution of Solid Waste Management Districts:* IDEM has to review the district plans of those counties that become a single county solid waste management district either by default or because they choose to because the joint district they belonged to has dissolved. The department may have to expend additional resources to meet this requirement.

Explanation of State Revenues:

Explanation of Local Expenditures: (Revised) Solid waste management districts must hold public hearings to discuss the introduction of a property tax levy. Districts also have to hold public hearings whenever the membership of the district changes and a new or amended solid waste management plan has to be submitted to IDEM. In the event that a district is dissolved and the county becomes a new county district either by default or choice, the district also has to hold a public hearing before adopting a new budget. The district may incur additional expenses in preparing for and in conducting these public hearings if they are in addition to regular scheduled meetings.

In the second and subsequent years that a solid waste management district plans to levy a property tax, the county fiscal body has to review or approve the district's budget and property tax levy as applicable. Similarly, each fiscal body within a district has to approve the use of property taxes whenever the membership of the district changes and the new county district, new joint district or existing joint district plans to levy a property tax in the following year (see Explanation of Local Revenues). The county fiscal bodies may have to expend additional resources in meeting this requirement.

Explanation of Local Revenues: (Revised) *Property Tax Levy and Fees:* Current law authorizes a county to either designate itself as a solid waste management district or to establish one with other counties. The very first year the district board of a solid waste management unit plans to levy a property tax to take effect the following year, it must obtain approval from the fiscal body of each county within the district. Each county fiscal body must approve the resolution by May 1 of the year in which the vote is taken. The district also has to get approval from the fiscal body of each county if in subsequent years it plans on increasing the property tax levy by five percent or more.

Under this proposal, for taxes payable in 2010 and after, before a solid waste management can levy a

property tax for the very first time, it must first hold a public hearing, then gain the approval of a majority of the members of its board before it submits the proposal to the fiscal body of each county within the district. The bill extends the date the fiscal body of each county has to approve the resolution from May 1 to August 1 the year the vote is taken.

For the second and subsequent years in which the district plans to levy a property tax under this bill, the proposed tax must first be approved by a majority vote of all the members of the board (a public hearing is not required). Additionally, the bill specifically directs the board to submit its proposed budget and property tax levy to the county fiscal body (or for joint districts the county fiscal body where the district has the most assessed valuation) for approval if the majority of the district's board is not elected and the percentage increase in the proposed budget is higher than the assessed value growth quotient (the average annual change in the state's non-farm personal income over the past six years or 6 percent whichever is smaller). If the district is in Marion county and the majority of its board is not elected, the proposed budget and property tax levy has to be submitted to the city-county legislative body regardless of whether the percentage increase in the budget is higher than the assessed value growth quotient.

On the other hand, if a majority of the district's board is elected or if the increase in the proposed budget is less than the assessed value growth quotient, the proposed budget and property tax levy would be submitted to the county fiscal body (or for joint districts the county in which the greatest part of the district's net assessed value is located) for review. The county fiscal body is limited to issuing a non-binding recommendation.

The bill also directs the district to hold a public hearing if it plans on imposing a fee. If it intends to levy both property taxes and fees, it may hold a single hearing to discuss both issues.

Adoption of annual budgets: Under current law the Department of Local Government Finance (DLGF) must approve the budgets of solid waste management districts. The budget is then forwarded to the executive and the fiscal body of each county and municipality located within the district.

Under this bill, for taxes payable in 2010 and after, in addition to the DLGF approval the annual budget must be approved by a majority by the members of the board. This is regardless of whether the district plans on increasing or decreasing the property tax levy or keeping it the same. Each year both the proposed property tax levy and the proposed budget will also be scrutinized by the county fiscal body. Under current law, only increases in the property tax levy of five percent or more are subjected to any form of review. Additionally, before levying a property tax for the first time, the board must hold a public hearing to discuss the issue.

Dissolution of Solid Waste Management Districts: Under current law, if a county withdraws from or is removed from a joint district, the county must make one of the following three choices

- a. Designate itself a new district;
- b. Form a new joint district with other counties;
- c. Join an existing joint district.

If the county elects to designate itself a new solid waste management district or joins with other counties to form a new joint district, the county district or new joint district has to submit a new district plan to the commissioner of IDEM for approval. If the county joins an existing joint district, the joint district has to amend its plan. If two or more members remain in the joint district after the county withdraws or is removed from the district, this joint district also has to amend its district plan.

Under this proposal, for taxes payable in 2010 and after, the county district or new joint district must hold a public hearing before it can submit its plan to IDEM for approval. Similarly, those districts that only have to amend their plans must also hold a public hearing before they do so. Additionally, if the new county district, new joint district or existing joint district plans to levy a property tax in the following year, it must obtain prior approval from each of the county fiscal bodies within the district in accordance with the provisions of this bill.

Additionally, the bill has the following two options for the county that is the only remaining member of a joint district from which other members have either withdrawn or have been dismissed.

Option 1. For taxes payable in 2010 and after, if the county does not form another joint district with other counties or does not join an existing joint district, then by default, the county must designate itself as a new county district and would be treated as such.

Option 2. If all other counties withdrew from the joint district with the last county to withdraw doing so between December 2, 2006, and December 31, 2009 inclusive, the county (which is now the lone remaining member of the former joint district) must before January 1, 2010 either designate itself a new district, form a new joint district with other counties, or join an existing district.

If the county becomes a new county district by default (Option 1) or chooses to designate itself as a new county district (one of the choices in Option 2), it must, after a public hearing, adopt and submit a new district solid waste management plan to the commissioner of IDEM for approval. The district must also after a public hearing adopt a new budget for the district. If the district plans on levying a property tax in the following year, the county fiscal body must approve the use of property taxes. The board of the district shall appoint and convene a new solid waste management advisory committee.

This bill would potentially give taxpayers, district board members, and county officials more control over a district's budget. The public must be allowed to comment whenever a district is planning on levying a property tax for the first time, when either a district has to formulate a new solid waste management plan or revise the current one, or when a new county district has to devise a new budget. Each year the district board, by majority vote of all members, must approve any proposed property tax levy and if the district becomes the sole member of a dissolved joint district, the board has to appoint and convene a new solid waste management advisory committee of citizens. County fiscal bodies have to at least review and in some cases, modify the budgets of districts. If the district membership changes the county fiscal bodies must approve any proposed property tax levy. The bill's impact would occur if budgets and/or property tax levies were reduced either during the review by one of the county fiscal bodies as applicable or before the review because of anticipated scrutiny and potential opposition.

In 2007 and 2008 there were approximately 68 solid waste management districts that either levied property taxes or had an appropriation. Of the 32 districts that levied property taxes in 2008 for which data is available; 6 districts decreased their levy from 2007; 21 had an increase of less than 5 percent; and 5 had an increase of over 5 percent. Under this bill the budgets and property tax levies of the 32 districts that levied property taxes in 2008 would be subject to review (under current law only the seven counties whose property taxes increased by over 5 percent would be reviewed). The total budget for the 68 districts was approximately \$44.5 M of which approximately \$19 M or 43 percent came from property taxes.

State Agencies Affected: DLGF, IDEM.

Local Agencies Affected: Solid Waste Management Districts, County Fiscal Bodies.

Information Sources: Local Government Database.

Fiscal Analyst: David Lusan, 317-232-9592.